

**REPORT ON THE**  
**BOARD OF COSMETOLOGY**  
Montgomery, Alabama



**Department of**  
**Examiners of Public Accounts**

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October 20, 2004

Representative Howard Sanderford  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Cosmetology** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Cosmetology**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones  
Chief Examiner



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## PROFILE

### Purpose/Authority

The Board of Cosmetology was first created by Act 653, *Acts of Alabama 1957*. The purpose of the board is to regulate the teaching and practice of cosmetology and to require the registration and licensing of cosmetologists, manicurists, estheticians, apprentices, students, and schools for cosmetologists, manicurists, and estheticians. The *Code of Alabama 1975*, Sections 34-7A-1 through 34-7A-25 provides the current statutory authority for the board.

### Board Characteristics

<b>Members</b>	7
<b>Term</b>	No more than two 4-year terms
<b>Selection</b>	Appointed by the governor with the advice and consent of the senate.
<b>Qualifications</b>	Five members must be active licensed master cosmetologists or instructor cosmetologists with at least five years practical experience in the majority of the practices of cosmetology.  Two of the members <b>may</b> be consumers.
<b>Racial Representation</b>	No statutory requirement. One minority member.
<b>Geographical Representation</b>	One member from each congressional district.
<b>Consumer Representation</b>	According to the board's statutes, two members <b>may</b> be consumers. The board has one consumer member.
<b>Other Representation</b>	The membership of the board shall be inclusive and reflect the racial, gender, geographical, urban/rural, and economic diversity of the state.

## Operations

### **Administrator**

Bob McKee, executive director  
Appointed by the governor, annual salary \$55,000.00.  
Salary set by the governor

### **Location**

100 North Union Street, Suite 320  
Montgomery, AL 36130

### **Type of License**

Personal licenses, business licenses and schools.  
Licenses issued as of August 31, 2004

Personal Licenses	28,142
Shops/ Studios/Salons	6,248
Schools	<u>46</u>
Total Licensees	<u>34,436</u>

### **Renewal**

Personal licenses expire on the last day of the licensee's birth month in odd numbered years. Applications for renewal received more than five days after the expiration date are assessed a late penalty.

Premise licenses expire on the last day of September in odd-numbered years. An application for renewal received more than 31 days after the expiration date shall be assessed a late penalty.

### **Examinations**

The board administers both a practical examination and the national examination for the National-Interstate Council of Cosmetology, Inc. A professional testing service (SMT) grades the national examination.

### **Continuing Education**

Instructors and master level licensees- 16 hours every two years. A manager level licensee may upgrade to a master level by paying the original license fee and completing sixteen hours of board-approved continuing education.



<b>Reciprocity</b>	<p>The board may grant the appropriate license, without examination, to any applicant who pays the required fees and</p> <ul style="list-style-type: none"> <li>• is currently licensed in good standing in another state or jurisdiction, or</li> <li>• Has practiced the applicable profession for at least five years immediately preceding application.</li> </ul>
<b>Employees</b>	23
<b>Legal Counsel</b>	Attorney General's Office
<b>Subpoena Power</b>	No
<b>Internet Presence</b>	<p><a href="http://www.aboc.state.al.us">www.aboc.state.al.us</a>. The boards' web site contains:</p> <ul style="list-style-type: none"> <li>• Application forms</li> <li>• A listing of all current board members</li> <li>• Statutory authority and administrative code</li> <li>• A schedule of board meetings and examinations for the current year</li> <li>• A fee schedule</li> <li>• Information concerning how to submit a complaint</li> <li>• Proposed changes to the administrative code.</li> </ul>
<b>Attended Board Member Training</b>	<ul style="list-style-type: none"> <li>• Two employees, Margaret Hardin and Jodi Respass, attended the 8/12/03 session,</li> <li>• Three board members, Claire Mitchell, Tim Mitchell, and Janie Cheatham, attended the 9/18/02 session,</li> <li>• Two board members, Vivien Stewart and Janie Cheatham, attended the 4/17/02 session.</li> </ul>
<b><u>Financial Information</u></b>	
<b>Source of Funds</b>	Licensing fees
<b>State Treasury</b>	Yes
<b>Unused Funds</b>	Retains unexpended funds.

## SIGNIFICANT ITEMS

1. **The loss of an examination booklet led to increased security procedures over testing materials.** On April 23, 2003, board staff discovered that an examination booklet for the written cosmetology examination given on April 22, 2003 was missing. The booklet was not found after a search of the board's offices and the test site, and interviews of staff and examination raters did not provide information sufficient to locate the booklet. The examination booklets are the property of the National Interstate Council of State Boards of Cosmetology (NIC), the developer of the examination. The NIC lodged a complaint against the Alabama Board which included a \$16,000 fine. The Executive Director of the Alabama Board of Cosmetology petitioned NIC to waive the fine in return for personal assurance of direct responsibility for exam security in the future. The fine was waived. As a consequence, procedures for safeguarding the examination materials have been implemented which provide a locked storage area for the test materials, restrict access to the materials to a limited number of people, require counts of materials before and subsequent to the examination and before mailing, log the books according to the candidates who used them, and require the personal supervision of the executive director over all phases of the examination.
2. **Board member attendance and participation in examination rater training may have precipitated an ethics violation.** Board members who are instructor cosmetologists and cosmetology school owners participated in examination rater training and were given access to cosmetology examination questions. This exposure provided the instructors with confidential information not available to other cosmetology instructors and school owners.

The *Code of Alabama 1975*, Section 36-25-8 provides that "No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business."

The Board of Cosmetology uses an examination owned and prepared by the National Interstate Council of State Boards of Cosmetology (NIC). In accordance with NIC guidelines, the board contracts with master and inactive instructor level cosmetologists to administer, proctor and grade the examination. The contractees are known as 'raters'.

The board requires raters to sign an agreement that contains provisions which disqualify active instructors, master cosmetologists with apprentices, and master cosmetologists working in salons with apprentices from participating in the examination process as raters in order to prevent a conflict of interest. Historically, Ala-

bama board members have helped to administer and rate examinations; however, cosmetology school owners and instructors were precluded from rater training and did not serve as raters.

On September 25 and 26, 2004, the board held a rater training session to familiarize raters with examination administration and grading procedures for the practical portion of the examination. The rater training course is required by NIC and is conducted by NIC personnel. The board's chair and vice-chair, who are instructor cosmetologists and cosmetology school owners, attended the rater training session but did not sign the board's rater agreement. During the training, the raters and the attending board members were exposed to actual questions used on many examinations.

3. **The proliferation of unlicensed barbershops offering essentially the same services as cosmetologists reduces the board's ability to regulate the practice of cosmetology.** A review of "problem" inspections (unlicensed shops, shops with license violations, shops with low inspection scores, shops that could not be inspected) from 6/03 through 8/04 shows of 130 problem inspections, 55 or 42% were unlicensed shops. The board's procedure upon discovering an unlicensed shop is to explain cosmetology is a licensed profession in Alabama and to leave an application for licensure with the shop manager. However, unless the unlicensed shop is performing nail services, there is no legal requirement for the shop to become licensed, as the definitions of cosmetologist services and the barber services exempted from the cosmetology licensing law are substantially the same.

The *Code of Alabama 1975*, Section 34-7A-1(9) defines cosmetology as "...any one or a combination of practices: arranging, dressing, curling, waxing, weaving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of any person, by any means, and/or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or otherwise, massaging, cleansing, stimulating, exercising, beautifying, or similar work on the scalp, face, neck, arms, legs, feet, hands, bust, or upper part of the body, or manicuring the nails of any person or adding nail tips, extensions, gels, or other articles to nails, or performing desairology, the art and science of dressing and arranging the hair, nails, and clothing of the deceased."

The *Code of Alabama 1975*, Section 34-7A-19(3) provides an exemption from licensure for "The services by any barber, including barber's apprentices and shop boys, when engaged in any of the following practices: (a). Arranging, cleaning, cutting, styling, dressing, curling, applying permanent curling or styling solution, waving, bleaching, coloring, applying any cosmetic chemical preparation to or singeing the hair of any person. (b). Massaging, cleansing, stimulating, exercising, or similar work upon the scalp, face, or neck of any person with the hands, or with mechanical or electrical apparatus or appliance, or by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams."

Owners of unlicensed shops who do not want to become licensed can apply for a business license as a barber shop and register with a local barber board, if there is one. Currently six counties, Baldwin, Etowah, Jefferson, Lauderdale, Madison and Mobile, have local barber boards. Barbering is not professionally licensed in the rest of the state. Once such shops are registered as barber shops, the Board of Cosmetology has no jurisdiction over them and cannot by law interfere with their practices as barbers.

4. **The loss of applications and checks led to the implementation of monitored licensing procedures.** On January 16, 2004 board staff discovered that 40 applications and attached fees received on December 9 and 10, 2003 were missing, although information from the applications had been input into the computer database, and licenses had been issued and mailed. A review of deposit records revealed the receipts had not been deposited. The applications and receipts were not found after an extensive search of the board's office and basement storage area. The capitol police were informed, and a report was filed.

The licensees were contacted and to date, none of the fees (checks and money orders) have been paid by any of the issuing institutions. The board contacted the licensees and explained that through a paperwork processing error the receipts had not been deposited into the board's account and requested licensees voluntarily reissue payment documents. Fourteen licensees have sent in payments, six net of service charges to stop payment of the misplaced negotiable instruments. The missing receipts totaled \$3,265.00. The board has recovered \$934 to date.

As a result of the loss of applications and receipts, regimented application processing procedures were implemented. The procedures assign responsibility for certain actions to employees and require employees to log and date their handling of each receipt and/or application, from the moment applications and payments are received to the mailing of licenses. Currently, the receipts are removed for processing and deposit from the applications as soon as they are entered into the mail log. The payments are noted directly on the applications, which are bundled for review and input into the database. Receipts are deposited promptly, frequently on a daily basis. Licenses are printed by the Information Services Division (ISD) of the Department of Finance. A printing report provided by ISD is compared to the applications before licenses are mailed. Errors or discrepancies are resolved, licenses are mailed and the applications are filed. The process log gives board staff the ability to track applications, records the processing time of applications, and documents any problems with applications plus the resolution of the problems.

## STATUS OF PRIOR SIGNIFICANT ITEMS AND FINDINGS

The following prior significant items from the most recent sunset review and findings from the most recent legal compliance examination have been resolved:

1. **PRIOR CONDITION -Because written policies have not been established for reference, the licensing process has not been carried out by employees in a consistent and correct manner.** We could find no written policies and procedures to provide guidance for performing licensing procedures. We also noted that some existing oral policies had not been communicated to all employees, resulting in employees performing the same licensing procedures differently. In addition, we observed that some procedures carried out by employees are in conflict with the cosmetology licensing law. Management has relied on the staff comprised of clerks and administrative support assistants to interpret the law as it applies to their work. Employees and management have not always interpreted the law correctly, resulting in charging licensees incorrect fees or unauthorized fees and issuing licenses to persons that are not qualified according to the law. Responses to questionnaires received from licensees indicate that the staff has not been very helpful in answering questions correctly.

### **Current Status**

Written procedures for the licensing process and other common situations have been implemented. The procedures include informative memoranda from the executive director, updated and amended administrative code sections, and instructions for handling various situations that arise in the office. Licensing procedures include a log system that allows staff to be able to track applications through receipt in the mail to filing of all documents. A review of a sample of process logs indicate that licensing procedures are being followed as written.

2. **PRIOR CONDITION -Inspectors have not been properly supervised.** During a review of personnel records, we noted that the previous executive directors had allowed inspectors to remain at home for one or two days per week to complete paperwork without performing inspections. Paperwork consists of preparation of itineraries for the week, completing travel claims and completing inspection reports. One inspector remained at home for several weeks because of car problems and did not perform inspections, during which time she continued to receive her regular salary. Another remained at home for an extended period because she received no new assignments. According to the board's administrative rules, the maximum inspection score a beauty salon can receive is 100. Salons receiving a score of less than 80 require re-inspection and are considered in violation of the practice act. The board implemented a policy of holding hearings for shops with low scores. Inspection report forms were revised in 2001 to yield a maximum score of 170 rather than 100. However, the inspectors continued to reduce inspection scores from a maximum of 100 rather than from 170. Conse-

quently, a reduction of 25 points would yield an actual score of 145, but the salon would be given a score of 75 by the inspectors. Eight salons with improperly computed low scores were scheduled for hearings in January 2003. The newly appointed executive director realized the scores were incorrect and that hearings under these circumstances were improper. The inspection reports were again revised in May 2003 to yield a maximum score of 100

#### **Current Status**

A review of documents surrounding the work of inspectors for 8 of the past 16 months shows that all inspectors' work time is accounted for. Inspectors are recorded as performing inspections, attending meetings or using leave. The board no longer allows days to be dedicated to writing reports or setting schedules. While the inspectors still have wide latitude to set their inspection schedules, the board now monitors work performance and maintains close communication with the inspectors. A review of inspection reports from business licensee files shows that the most current inspection report (revised May 2003) is being used and completed correctly. The current form now reflects the board's administrative rule which provides that businesses scoring less than 80 must have a re-inspection and possibly a hearing.

3. **PRIOR CONDITION -The agency continues to be staffed with temporary employees in positions that would be better served by full time employees.** Temporary personnel are serving as receptionists, processing complaints, and processing licenses. Since April 2003, the board has employed eight temporary employees to perform office duties. At the time of preparation of this report, there were four temporary employees or 29% of office staff other than the executive director. Employment of temporary employees at this level retards the accumulation of experience specific to the agency that is necessary for efficient and effective, and accurate work production.

#### **Current Status**

The board is now staffed with 1 executive director and 22 classified merit system employees. All employees are permanent employees, although one works part-time.

4. **PRIOR CONDITION -Some former licensees were allowed to restore their expired licenses without taking the examination required by law.** According to the licensees' files reviewed, at least three persons were allowed to renew their expired licenses without taking and passing the practical examination required by law. According to the *Code of Alabama 1975*, Section 34-7A-20 (2), a license that has been expired for more than three years may be restored upon proof of prior licensing, payment of the applicable examination fee, *successful completion of the practical part of the applicable examination*, and payment of accumulated fees for the lapsed period.

### **Current Status**

A sample of less than three year reinstatements and greater than three year reinstatements showed that all reinstatement applicants who qualified for the 3 years or greater reinstatement were scheduled for the practical exam and an examination fee was received. Those who passed the examination were issued reinstatement licenses. No applicant who was required to take the test was issued a reinstatement license without taking and passing the practical examination. In every instance where a reinstatement fee was collected, the correct fee according to the board's rules was received.

- 5. PRIOR CONDITION -Incomplete licensee files continue to be a problem for the agency.** We observed records dating back to 1997 that had not been filed in licensees' folders. File folders had not yet been made for new licensees. Paperwork for applicants is maintained in several file cabinets in the board's offices and in the board's storage area located in the basement of the building. In some cases, licensees applying for reciprocity to other states could not be properly certified because the licensee's paperwork could not be located. We observed that license renewal applications, applications for new licenses, and beauty shop inspection reports had not been filed in the licensees' folders for several months. As a result of incomplete records maintained in the licensees' folders, there is a greater chance for issuance of licenses to applicants that do not meet the qualifications for licensure.

### **Current Status**

Interviews with employees about unfiled and missing documents indicate that staff is still working towards emptying storage areas and filing all stored documents in the proper licensee, inspection, and complaint files. The office manager stated that current applications, inspection reports, correspondence and any other materials are filed in the licensees' files on a daily basis. Because of the history of lax office procedures and disarray of this office, some files are missing, and complete historic information may never be achieved for all files. Complaint files exist only back to 2002 and parts of 2001. Some minutes of board meetings prior to 2002 are missing. The board's staff has conducted an unsuccessful search for the missing records. Observation of the file area shows that the file room is well maintained and that there is now a full time employee who checks files in and out. A review of licensee and complainant files performed while testing the resolution of sunset report significant items revealed that files contained complete information for the past two years and that most files had complete historic information.

- 6. PRIOR CONDITION -Unauthorized fees have been collected from persons applying to restore their licenses.**
- According to the *Code of Alabama 1975*, Section 34-7A-20(b) (1) an expired certificate or license may be restored within three years after the date of expiration upon payment of a fee. The fee, by law shall include accumulated annual renewal fees for the lapsed period, a penalty fee, and the current renewal

fee. *The board has assessed licensees a penalty fee of \$25 per renewal period following expiration rather than the correct flat \$25.00 late penalty fee.*

- Also, according to the ***Code of Alabama 1975***, Section 34-7A-20(b)(2) a license which has been expired for more than three years may be restored upon proof of prior licensing, payment of the applicable examination fee, successful completion of the practical exam, and payment of accumulated fees for the lapsed period. *Although there is no provision to collect a one-time penalty fee in these circumstances, the board was doing so.*

#### **Current Status**

Act 2004-104, ***Acts of Alabama***, which became effective April 8, 2004, resolved the issue by redefining both the less than three year reinstatement and the three year or more reinstatement to include payment of a single late fee of \$25. A review of reinstatement applications indicated that the board is correctly assessing and collecting the one time late fee of \$25 for each reinstated license.

- 7. PRIOR CONDITION -The personal commuting use of a state-owned vehicle by the executive director was not reported to the State Comptroller for 2000, 2001 or 2002.** Annually the State Comptroller sends a memorandum to all state agencies concerning the taxation and reporting of personal use of state owned/leased vehicles. The State of Alabama allows the use of state owned vehicles for personal commuting, but such use must be converted to equivalent income and reported annually as personal income for federal tax purposes. Each state agency is required to pay the employer share of FICA and Medicare tax due on the computed income.

#### **Current Status**

The single state-owned vehicle used by the board's staff is not available for personal commuting use. The lack of personal commuting use has been reported as required.

- 8. PRIOR CONDITION -Fees received were not deposited in a timely manner, a condition that creates unnecessary risk of loss or misuse of state funds.** During the period of this examination, receipts were held from one to four months before being deposited into the State Treasury.

#### **Current Status**

A review of treasurer's certificates of deposit and supporting documentation shows that receipts are being now deposited in a timely manner, usually within one week of receipt.



- 9. PRIOR CONDITION -Licenses were not issued in a timely manner.** The board redesigned its licenses to print from the board's new database expected to be on line in time for the 2003-05 renewal period beginning in January 2003. However, the redesigned licenses were not ordered in time, and renewal was delayed while awaiting receipt of the redesigned licenses. The redesigned licenses were eventually received, but the new database was never completed and placed in use, and the old database was used with old license forms. In consequence, licensees did not receive their licenses until several months after they submitted their renewal fees, and 40,000 unusable new licenses were printed at a cost of \$18,716.02. Renewal licenses were finally issued in March 2003. As of September 2003, no licenses were on hand to renew beauty shops for the 2003-05 renewal period beginning October 1. When the board ordered new beauty shop licenses for the 2003-05 renewal period, the printing company was not notified to change the license format. Consequently, the beauty shop licenses were printed in the format for personal licenses with a section for a photo ID.

**Current Status**

The board plans to use license forms from the previous order for the 2005 – 2007 renewal season. The forms are not printed with the date, which is usually printed on the license at the time it is issued. The old license forms are compatible with the current license system. The board has not yet achieved and implemented a new licensing database system, and new license forms will not be ordered until the new system is installed. A review of a sample of process logs, which record the date an application for licensure was received and the date the license was mailed out, showed that currently, the average time between receipt of application and mail of license is between 9 and 13 days.

**The following significant items from the most recent prior sunset review and the following findings from the most recent legal compliance examination are in the process of being resolved.**

- 10. PRIOR CONDITION -The board remains unsuccessful in implementing a new licensing database.** In fiscal year 1997-98 the board entered into a contract with Camber, Inc. to develop a database to process licenses. Camber delivered a database, but the newly appointed executive director decided that the system did not meet their needs and refused to pay Camber for its services. Camber filed a claim with the State Board of Adjustment and was paid \$129,000.00 in fiscal year 1999-00. In September 2002, a contract was executed with the Department of Finance, Information Systems Data System (ISD) to develop a Microsoft Access database to process licenses, at a cost of \$10,043.75. According to ISD and the office staff, the system was never tested to determine if it was adequate. When a new executive director was appointed in March 2003, the staff tested the system and determined that the system was inadequate. The agency is currently in the process of procuring a new licensing program from a private vendor.

### **Current Status**

After conducting request for proposal procedures, the board selected a product from G. L. Suite of Bend, Oregon for a new licensing database. The board is currently preparing a contract to be submitted at the October Contract Review Committee meeting. The three-year contract includes hardware, software, installation, training and technical support for a total of \$89,000. If the contract is reviewed and approved in October, the system is projected to be installed and implemented by February 2005.

- 11. PRIOR CONDITION -Although it is tasked by law with doing so, the board has not established a workable administrative rule governing continuing education for renewal of license for master cosmetologists, master manicurists and master estheticians. .** According to the *Code of Alabama 1975*, Section 34-7A-22 (12), any person licensed as a managing cosmetologist, managing esthetician, or managing manicurist, who pays the original licensing fee and *completes a course of study in continuing education approved by the board within a licensing period*, may be issued a master license. Board Rule 250-X-2-.04 requires licensees with master's license to attend continuing education courses from a board-approved continuing education provider in order to renew their licenses. However, *the rule does not specify how many continuing education hours are required*. In absence of a specified number of hours, the staff has followed board Rule 250-X-5-.13 pertaining to renewal of instructor licenses and that requires instructors to attend sixteen hours of continuing education at least once during each two-year licensing period.

### **Current Status**

The board properly amended its administrative rule 250-X-2-.04 to include 16 hours as the number of continuing education hours necessary to be initially licensed at the master cosmetologist level, but did not carry forward the requirement from the old rule that continuing education hours were also a prerequisite at each renewal in order to continue to be licensed at the master cosmetologist level.

The board's current practice is to require 16 hours of continuing education as contained in the amended rule in order to upgrade the license to a master cosmetologist level and impose the former rule's requirement of submitting 16 continuing education hours, as required of instructors, at each renewal as a requirement of continuing to be licensed at the master cosmetologist level. When informed of the lack of renewal requirement in the amended rule, the executive director stated he had not realized the discrepancy existed and would have the amended rule corrected.

- 12. PRIOR CONDITION -Errors and untimely processing of financial and personnel transactions have occurred.** We noted that travel claims for employees and board members were often paid in error. Personnel transactions were not processed in a timely manner, resulting in employees taking leave in excess of available balances and receiving pay when they should have been placed on leave

without pay. For the 2002-03 fiscal year, we noted sixteen overpayments for improper travel and payroll expenses. One board member commuting from a distance of less than 50 miles received unallowable overnight travel allowances in conflict with the Department of Finance Fiscal Policy and Procedures Manual. It has been necessary to recover overpayments from members of the board and from employees.

#### **Current Status**

A review of 47 travel vouchers from the 2003-2004 fiscal year indicates that the many errors in paying travel claims found in previous fiscal years have not been repeated. However, on two travel claims, a meal allowance was paid in error. A meal allowance is paid when a person is in travel status more than six hours but less than twelve hours. In both cases, the recorded time in travel status was less than six hours. I reviewed a sample of time sheets and compared the annual and sick leave usage to the associated GHRs monthly leave report. From time sheets sampled, I could find no discrepancies in the use and posting of leave.

**The following prior significant items from the most recent sunset review and findings from the most recent legal compliance examination have not been resolved:**

- 13. PRIOR CONDITION -Follow-up of poor salon inspection scores was not timely.** The *Code of Alabama 1975*, Section 34-7A- 15 gives the board the authority to revoke or suspend a license or certificate of registration upon proof of violation of the cosmetology licensing law. According to board's Administrative Rule 250-X-3.02, salons receiving a score of less than eighty (80) have thirty days to correct the deficient areas. If salons receive a score of less than eighty (80) on the second inspection, they are in violation of the board's practice act. An examination of fifty-two (52) inspection reports indicate that thirty shops receiving an inspection score of less than 80 were not re-inspected at the end of the thirty-day time period. The shops were re-inspected two to eleven months after receiving the initial deficient inspection report.

#### **Current Status**

A review of low score inspections from 12/2/03 through 8/31/04 showed that of 21 inspections reviewed, re-inspection occurred between 19 and 111 days after the low score inspection. Just over half of re-inspections occurred subsequent to the required 30 days. The condition of untimely reinspections is not resolved. The chart below shows the occurrence rate of re-inspection:

<b>Time:</b>	<b>Number of Inspections:</b>
30 or less days	4
31 to 40 days	6
41 to 50 days	2
51 to 60 days	3
61 to 70 days	2

71 to 80 days	2
81 to 90 days	1
91 to 100 days	0
Over 100 days	1
Total	21

**14. PRIOR CONDITION** The board adopted guidelines for continuing education seminars, but did not establish an administrative rule to that effect and was not consistent in applying its adopted application deadline. The *Code of Alabama 1975*, Section 34-7A-3 (e) requires the board to promulgate guidelines for approved seminars of continuing education. The board did not develop an administrative rule containing the guidelines according to the process required by the state's Administrative Procedure Act. However, in the 2001 calendar year, the board developed an application packet to be completed by prospective continuing education sponsors/providers and required to be submitted 90 days prior to the seminar date. At some unrecorded time during the calendar year 2002, the board decided to relax the 90-day requirement, and sponsors were allowed to file at any time. The application process was again revised in January 2003 to again include a requirement that all sponsors desiring to provide continuing education seminars must submit their requests 90 days prior to the seminar date. According to the March 3, 2003 board meeting minutes, the board approved two continuing education seminars by unanimous approval. Two board members who voted for approval were also officers of the professional association that sponsored the seminars and submitted them for approval. One of the board members personally presented the seminar to the board for approval at the meeting. There was no application packet on file to indicate that application for approval of the seminar was subjected to the normal review process. The same board member also presented another seminar for approval at a June 23, 2003 board meeting. The seminar was approved to take place on August 17 and 18, 2003, less than the 90-day lead-time requirement adopted by the board.

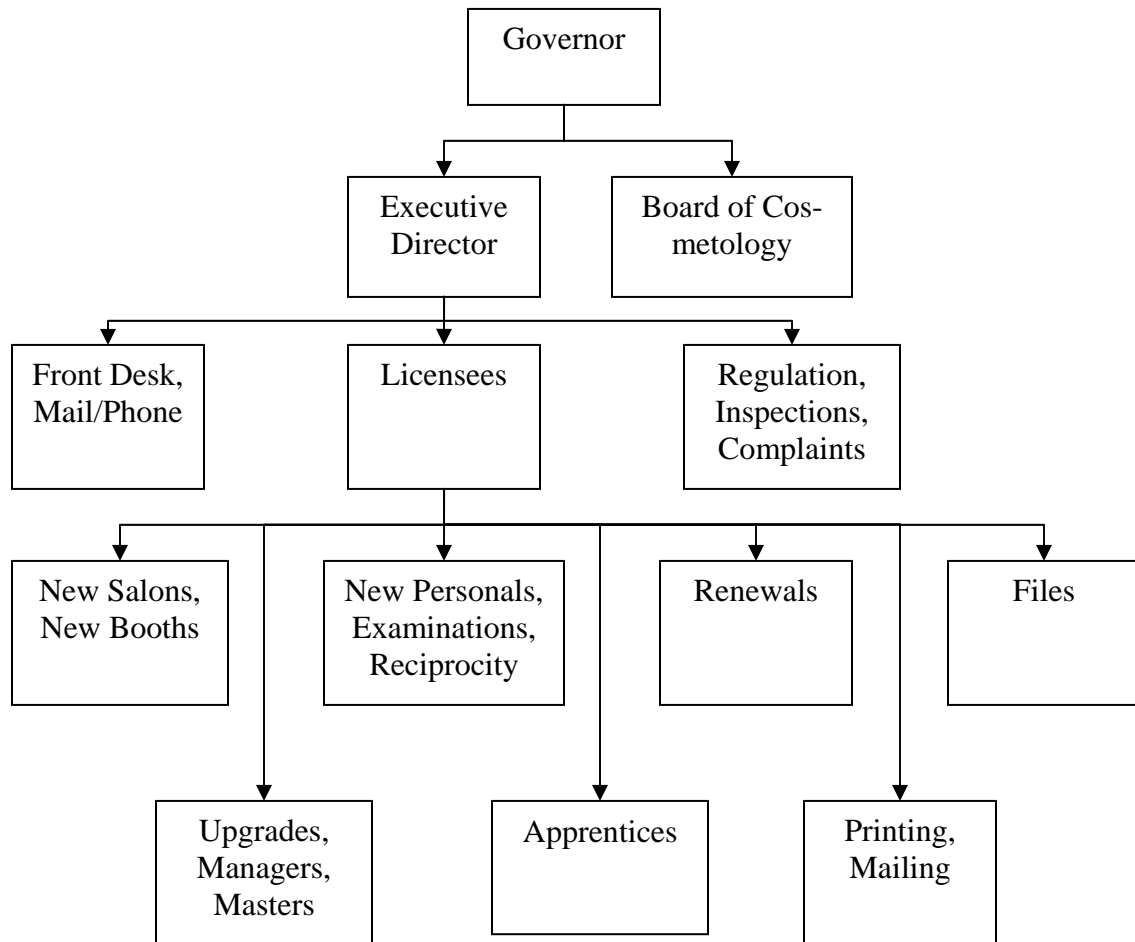
#### **Current Status**

The board created and properly filed the rule for requirements for continuing education providers following Administrative Procedure Act requirements. The rule codifies the board's informal guideline that continuing education providers submit applications for seminars for approval 90 days prior to the date(s) of the seminar. Rule **250-X-2-.08 Requirements for Continuing Education Providers** states, "(1) *Applications to sponsor continuing education seminars must be submitted to the Board office at least ninety (90) days before the date seminars are to be held.* (2) *In unusual circumstances the Board may grant exceptions to the ninety (90) day requirement in (1) above if seminars would have otherwise met all adopted guidelines. Requests for exceptions must be made in writing to the Board.*"

Lack of consistent application of board practices regarding timely submission of continuing education seminars remains unresolved. Although the board properly

adopted an administrative rule for its actual practices, the board is not always following the rule. From June 23, 2003 to present, the board reviewed sixty-three continuing education seminars. Of these, the board inappropriately approved four continuing education seminars that were not submitted or revised and resubmitted 90 or more days before the date of the seminar. There is no indication in the minutes of board meetings associated with the seminars or in the education seminar files that any person requested a waiver of the 90 day submission rule. Adherence to administrative rules is binding on both the board and to the persons to whom the rules apply.

## ORGANIZATION



## PERSONNEL

The board presently employs 23 persons, consisting of one executive director and 22 classified merit system employees. The executive director is appointed by the governor. The attorney general's office provides legal services for the board.

### Schedule of Employees

Classification	Race		Gender		Total
	Black	White	Female	Male	
Executive Director		1		1	1
Senior Accountant		1	1		1
Administrative Support Assistant III		1	1		1
Administrative Support Assistant II	1	2	3		3
Administrative Support Assistant I	2	4	6		6
Inspector		7	7		7
Account Clerk	1	1	2		2
Clerk		1	1		1
Laborer		1		1	1
Totals	4	19	21	2	23

### PERFORMANCE CHARACTERISTICS

**Number of Licensees per Employee** – 1,497

**Total Expenditure per Licensee (2003-2004 fiscal Year)** - \$35.97

**Number of Persons per Licensee in Alabama and Surrounding States**

State	Estimated Population	Number of Licensees	Persons Per Licensee
Alabama	4,500,752	34,436	131
Florida	17,018,068	63,920	266
Georgia	8,684,715	61,650	141
Mississippi	2,881,281	23,600	122
Tennessee	5,841,748	71,142	82

### **Notification to Licensees of Board decisions to Amend Administrative Rules**

The board complied with procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. The board also posts a draft of proposed rules on its website and notifies licensees of changes through a newsletter that is sent to all licensees.

### **Complaint Resolution**

Year:	Complaints Received:	Resolved in:		
		2003	2004	Pending
2003	77	68	9	0
2004 (1)	45	0	34	11

1. Through August 25, 2004.

## **Complaint Process**

Board Rules 250-X-1-.01 and 250-X-1-.02 provide the procedures for documentation, receipt, and investigation of complaints relating to board licensees/illegal practices and the procedures for hearings before the board. The board is in the process of amending its administrative code concerning complaint and hearing procedures. The table below documents current procedures in place.

Initial Documentation	<ul style="list-style-type: none"><li>• Complaints must be in writing, signed by the complainant.</li><li>• Complaints can be faxed or mailed to the board's office.</li><li>• A form is provided in downloadable form on the board's website or in hard copy to be mailed; however, it is not required.</li><li>• Complaints are logged when received and tracked through the investigation/resolution process</li></ul>
Anonymous Complaints	The board does not investigate anonymous complaints. The board's administrative code defines a complaint as a written document signed by the complainant.
Board Generated Complaints	The board has the authority, either through routine inspection or on the basis of information received, to conduct an investigation or inspection and file a complaint against a licensee.
Administrative Process	<ul style="list-style-type: none"><li>• The complaint is mailed to the respondent (person complained against) prior to the complaint being placed on the board agenda for the next meeting. The respondent is provided at least ten days after the complaint is mailed to file a written response</li><li>• The board will review the complaint and any response and take whatever action is deemed necessary</li><li>• Board members who participate in the investigation of a complaint will disqualify themselves from adjudicating the complaint.</li></ul>
Hearing Procedures	<ul style="list-style-type: none"><li>• Upon determining the action it will take, the board gives the licensee/applicant 21 days written notice of intended action.</li><li>• Within ten days from receipt of notice, the licensee/applicant may request a hearing.</li><li>• If no hearing is requested, the board will take final action on the complaint.</li><li>• If a hearing is requested, the chairman or a designated hearing officer presides over the hearing.</li><li>• At the conclusion of the hearing, the board or the hearing officer prepares a finding of facts and conclusion of law, plus an order.</li><li>• The board, at its next regularly scheduled meeting, votes its final approval on the matter and the licensee/applicant is notified of the decision.</li></ul>



## FINANCIAL INFORMATION

### Schedule of Fees

The *Code of Alabama 1975*, Section 34-7A-11 authorizes the board to set fees. The following fees have been set.

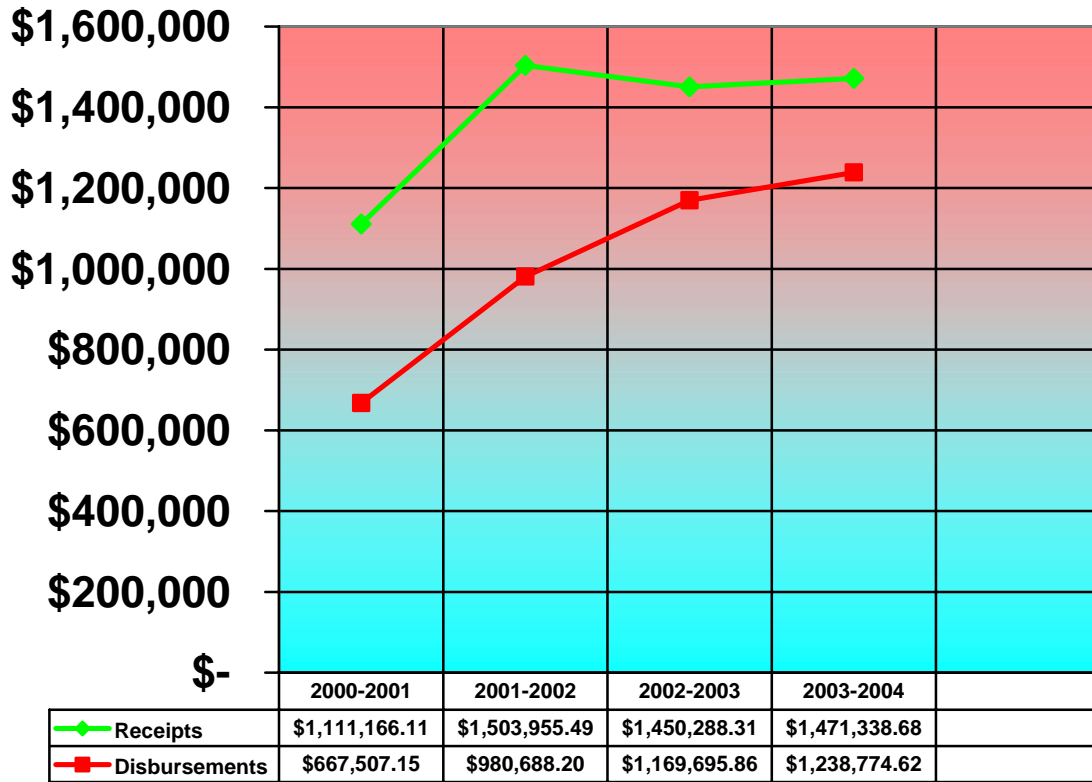
<u><i>Fee</i></u>	<u><i>Administrative Rule</i></u>	<u><i>Amount</i></u>
Original License Fee	250-X-9	\$15.00
Examination Fee	250-X-9	65.00
Personal Renewal and Activation Fee	250-X-9	80.00
Inactive Renewal Fee	250-X-9	35.00
Business Original Fee	250-X-9	150.00
Business Relocation to a Different County Fee	250-X-9	150.00
Business Renewal Fee	250-X-9	100.00
School Original Fee	250-X-9	300.00
School Renewal Fee	250-X-9	150.00
Reciprocity Fee	250-X-9	100.00
Shampoo Assistant Original Fee	250-X-9	40.00
Shampoo Assistant Renewal Fee	250-X-9	40.00
Apprenticeship Fee	250-X-9	80.00
Demonstrator License Fee	250-X-9	15.00
Reinstatement fees:		
Expired 1999 and earlier	250-X-9	330.00
Expired 2001 and later	250-X-9	250.00
Late Fee	250-X-9	25.00
Duplicate License Fee	250-X-9	25.00
Upgrade License (not during renewal month)	250-X-9	15.00
Printed Mail Labels	Cost Recovery	200.00
Listing of Licensee Address for Complete State	Cost Recovery	100.00
Diskette of all Licensee Addresses	Cost Recovery	70.00
Listing of Licensee Address sent by E-Mail	Cost Recovery	60.00
Change to Salon-Same County (not during renewal month)		

## Schedule of Operating Receipts, Disbursements, and Balances

**October 1, 2000 through September 30, 2004**

	<b><u>2003-04</u></b>	<b><u>2002-03</u></b>	<b><u>2001-02</u></b>	<b><u>2000-01</u></b>
<b><u>Receipts:</u></b>				
Certification and Examination Fees	\$ 1,466,267.47	\$ 1,448,098.31	\$ 1,503,464.40	\$ 1,109,501.11
License Registration Lists	2,965.00	2,190.00	490.00	1,665.00
Salvaged Equipment	2,106.21	-	1.09	-
Total	<u>1,471,338.68</u>	<u>1,450,288.31</u>	<u>1,503,955.49</u>	<u>1,111,166.11</u>
<b><u>Disbursements:</u></b>				
Personnel Costs	541,324.86	442,494.88	364,197.78	249,635.59
Employee Benefits	206,065.26	151,500.38	126,852.97	96,366.31
Travel-in-State	172,296.94	173,772.54	166,464.96	73,608.21
Travel-out-of-State	7,191.19	9,391.25	3,654.99	1,951.37
Repairs and Maintenance	1,424.58	-	-	235.00
Rentals and Leases	97,728.90	101,463.90	86,668.14	72,930.31
Utilities and Communication	53,300.59	63,285.76	43,544.36	35,458.05
Professional Services	109,378.87	163,366.26	129,561.06	104,987.66
Supplies, Materials, and Operating Expense	45,022.09	49,050.32	56,128.59	22,808.92
Transportation Equipment Operations	653.36	877.57	1,266.35	856.75
Other Equipment Purchases	4,387.98	14,493.00	2,349.00	8,668.98
Total	<u>1,238,774.62</u>	<u>1,169,695.86</u>	<u>980,688.20</u>	<u>667,507.15</u>
Excess (Deficiency) of Receipts Over Disbursements	232,564.06	280,592.45	523,267.29	443,658.96
Cash Balance at Beginning of Year	2,637,441.17	2,356,848.72	1,833,581.43	1,389,922.47
Cash Balance at End of Year	2,870,005.23	2,637,441.17	2,356,848.72	1,833,581.43
Reserved for Year-end Obligations	(117,796.13)	(54,098.19)	(52,859.25)	(80,568.97)
Unobligated Cash Balance	<u>\$ 2,752,209.10</u>	<u>\$ 2,583,342.98</u>	<u>\$ 2,303,989.47</u>	<u>\$ 1,753,012.46</u>

### Operating Receipts Vs Operating Disbursements (Chart)



## APPENDICES

### Statutory Authority

#### **CHAPTER 7A. ALABAMA BOARD OF COSMETOLOGY.**

##### HISTORICAL NOTES

##### HISTORY

Effective date: The act which added this chapter is effective June 3, 1999.

##### Code Commissioner's Notes

Act 99-345, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7-1 to 34-7-47, inclusive, is continued pursuant to this newly-created chapter. All rights, duties, property, real or personal, and all other effects existing in the name of the Alabama Board of Cosmetology, or in any other name by which the board has been known, shall continue in the name of the Alabama Board of Cosmetology. Any reference to the Alabama Board of Cosmetology, or any other name by which the board has been known, in any existing law, contract, or other instrument shall constitute a reference to the Alabama Board of 000000Cosmetology as created in this chapter. All actions of the Alabama Board of Cosmetology lawfully done prior to June 3, 1999, by the board or by the executive director, are approved, ratified, and confirmed. The board as constituted on June 3, 1999, shall constitute the board under this chapter."

##### REFERENCES

##### CROSS REFERENCES

As to health laws applicable to manicure or beauty shops, see §§ 22-17-1 et seq.

As to licenses for manicurists, hairdressers, etc., see § 40-12-124.

##### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-4-.01 et seq., Board of Cosmetology; Apprentices.

4 Ala. Admin. Code 250-X-5-.01 et seq., Board of Cosmetology; Reciprocity.

4 Ala. Admin. Code 250-X-6-.01 et seq., Board of Cosmetology; Schools of Cosmetology.

4 Ala. Admin. Code 250-X-7-.01 et seq., Board of Cosmetology; Mobile Cosmetological Establishment.

4 Ala. Admin. Code 250-X-8-.01 et seq., Board of Cosmetology; Schools of Manicuring.

##### **§ 34-7A-1. Definitions.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

For the purposes of this chapter, the following words and phrases shall have the following meanings:

(1) Apprentice cosmetologist. Any person who is engaged in the learning or acquiring of any or all practices of cosmetology and, while so learning, performs or assists in any of the practices of cosmetology in a licensed cosmetology salon under the direction of a master or instructor cosmetologist.

(2) Apprentice esthetician. Any person who is engaged in the learning or acquiring of any or all practices of an esthetician and, while so learning, performs or assists in any of the practices of skin care in a licensed esthetician salon or cosmetology salon under the direction of a master or instructor esthetician, or master or instructor cosmetologist.

(3) Apprentice manicurist. Any person who is engaged in the learning or acquiring of any or all practices of manicuring and, while so learning, performs or assists in any of the practices of manicuring in a licensed manicurist salon or cosmetology salon under the direction of a master or instructor cosmetologist or master or instructor manicurist.

(4) Board. The Alabama Board of Cosmetology.

(5) Booth rental. The practice of renting space within an established cosmetology salon to a sole proprietor as a legally separate business entity. A booth renter shall be a managing or master cosmetologist.

(6) Cosmetologist. Any person, not an apprentice or a student, following or practicing cosmetology on members of the general public for compensation, and who shall have the qualifications and licensing hereinafter provided for a cosmetologist.

(7) Cosmetologist instructor. A cosmetologist who teaches cosmetology, or any practices thereof, in a duly registered school of cosmetology.

(8) Cosmetologist student instructor. A cosmetologist who is receiving instruction in teacher's training in a duly registered school of cosmetology.

(9) Cosmetology. Any one or a combination of practices generally and usually performed by, and known as the profession of beauty culturists, cosmeticians, cosmetologists, hairdressers, or of any other person holding himself or herself out as practicing cosmetology by whatever designation and within the meaning of this chapter in and upon whatever place or premises; and in particular shall include, but otherwise not be limited thereby, to the following or any one or a combination of practices: arranging, dressing, curling, waxing, weaving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of any person, by any means, and/or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or otherwise, massaging, cleansing, stimulating, exercising, beautifying, or similar work on the scalp, face, neck, arms, legs, feet, hands, bust, or upper part of the body, or manicuring the nails of any person or adding nail tips, extensions, gels, or other articles to nails, or performing desaiology, the art and science of dressing and arranging the hair, nails, and clothing of the deceased.

(10) Cosmetology salon. Any place wherein cosmetology or any of its practices are followed, whether the place is known or designated as a cosmetician, cosmetological, or cosmetology salon or establishment or whether the person practicing cosmetology holds himself or herself out as a cosmetician, cosmetologist, or beauty culturist, or by any other name, or designation indicating that cosmetology is practiced therein. A cosmetology salon shall have a managing or master cosmetologist on duty five days a week.

- (11) Cosmetic studio. Any place where a demonstrator performs demonstrations for the advertisement or sale of cosmetics.
- (12) Credit unit hours. One credit unit hour equals one and one-fourth clock hours. A sufficient number of credit unit hours is necessary to provide a standardized curriculum in the practice of cosmetology and related practices regulated by the board.
- (13) Demonstrator. A person, not licensed in this state as a cosmetologist or cosmetologist instructor, who performs demonstrations for the advertisement or sale of cosmetics by physically applying cosmetic preparations to the hair or body of another person.
- (14) Esthetician. Any person, not an apprentice or a student, who engages in any of the following specialized practices generally recognized in the field of cosmetology: skin care, make-up artistry, facials, and body waxing.
- (15) Esthetician instructor. An esthetician who teaches skin care or any practices thereof in a duly registered school of cosmetology or school for estheticians.
- (16) Esthetician salon. Any place, not a cosmetology salon, wherein skin care or any of its practices are followed. An esthetician salon shall have a managing or master cosmetologist or managing or master esthetician on duty five days a week.
- (17) Esthetician student instructor. An esthetician who is receiving instruction in teacher's training in skin care in a duly registered school for estheticians or school of cosmetology.
- (18) Managing cosmetologist. A cosmetologist who manages or conducts a cosmetology salon or school of cosmetology.
- (19) Managing esthetician. Any person who manages or conducts an esthetician salon.
- (20) Managing manicurist. Any person who manages or conducts a manicurist salon.
- (21) Manicurist. Any person, not an apprentice or a student, who engages only in the practice of manicuring, adding nail tips, extensions, gels, or otherwise grooming the nails of another person.
- (22) Manicurist instructor. A manicurist who teaches nail care or any practices thereof in a duly registered school of cosmetology or school of manicuring.
- (23) Manicurist salon or nail salon. Any place, not a cosmetology salon, wherein manicuring or any of its practices are followed. A manicurist salon shall have a managing or master cosmetologist or managing or master manicurist on duty five days a week.
- (24) Manicurist student instructor. A manicurist who is receiving instruction in teacher's training in nail care in a duly registered school of manicuring or school of cosmetology.
- (25) Master cosmetologist. A managing cosmetologist who has completed an approved course of study in continuing education within a licensing period and has paid an original licensing fee as established by the board. A master cosmetologist license is an optional license which may be renewed by the licensee concurrently with his or her managing license.
- (26) Master esthetician. A managing esthetician who has completed an approved course of study in continuing education within a licensing period and has paid an original licensing fee as established by the board. A master esthetician license is an optional license which may be renewed by the licensee concurrently with his or her managing license.
- (27) Master manicurist. A managing manicurist who has completed an approved course of study in continuing education within a licensing period and has paid an original licensing fee as established by the board. A master manicurist license is an optional license which may be renewed by the licensee concurrently with his or her managing license.

(28) Place of cosmetology. A place where cosmetology is practiced on members of the public for compensation and a place where cosmetology is taught to student apprentices.

(29) School for estheticians. Any place wherein only skin care or any of its practices are taught, whether the place is known, operated, or designated as a school for estheticians, or otherwise, indicating that skin care is taught therein to students.

(30) School of cosmetology. Any place wherein cosmetology or any of its practices are taught, whether the place is known, operated, or designated as a cosmetician or cosmetological school or establishment, or otherwise, indicating that cosmetology is taught therein to students.

(31) School of manicuring. Any place wherein only manicuring or any of its practices are taught, whether the place is known, operated, or designated as a school of manicuring, or otherwise, indicating that manicuring is taught therein to students.

(32) Shampoo assistant. Any person who is licensed as a shampoo assistant, meets all of the requirements for a health certificate, and engages only in the practices of shampooing, cleaning, or applying temporary weekly color rinses to the hair of any person.

(33) Student cosmetologist. Any person who is engaged in the learning or acquiring of any or all practices of cosmetology and, while so learning, performs or assists in any of the practices of cosmetology in a school of cosmetology under the instruction or immediate supervision of an instructor cosmetologist.

(34) Student esthetician. Any person who is engaged in the learning or acquiring of any or all practices of an esthetician and, while so learning, performs or assists in any of the practices of skin care in a school for estheticians or school of cosmetology under the instruction or immediate supervision of an instructor esthetician or instructor cosmetologist.

(35) Student manicurist. Any person who is engaged in the learning or acquiring of any or all practices of manicuring and, while so learning, performs or assists in any of the practices of manicuring in a school of manicuring or school of cosmetology under the instruction or immediate supervision of an instructor manicurist or instructor cosmetologist.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

## REFERENCES

### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-5-.02, Board of Cosmetology; Reciprocity: Classification of Schools.

### § 34-7A-2. Penalties.

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

Any person who practices, maintains a school, maintains a salon, or acts in any capacity without a certificate or license when one is required pursuant to this chapter, or who otherwise violates any provision of this chapter, shall be guilty of a misdemeanor and fined no more than five hundred dollars (\$500) or imprisoned for no more than 90 days, or both. Any corporation which acts in violation of any provision of this chapter shall be punished by a fine of no more than one thousand dollars (\$1,000).  
(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

### LIBRARY REFERENCES

American Digest System:

Licenses 40.

Corpus Juris Secundum:

C.J.S. Licenses §§ 82-83; Trading Stamps and Coupons § 6.

### **§ 34-7A-3. Board of Cosmetology.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

(a) There is created the Alabama Board of Cosmetology which shall consist of seven persons appointed by the Governor, with the advice and consent of the Senate. The seven members shall consist of the seven members of the existing Board of Cosmetology. One member shall be appointed from each congressional district, as those districts are constituted on June 3, 1999. At least five of the members of the board shall be active licensed master cosmetologists or instructor cosmetologists who reside in the district he or she represents and two of the members may be consumers. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(b) The terms of all current members of the board shall continue upon June 3, 1999, and the seven-person board as constituted on that date shall continue as the board under this chapter. As terms expire, successor board members shall be appointed by the Governor, with the advice and consent of the Senate. All appointments shall be for a term of four years. No person shall serve for more than two terms on the newly-constituted board. Vacancies on the board shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired terms. Any board member may be removed by the Governor for just cause.

(c) Any cosmetologist serving as a member of the board shall have at least five years of practical experience in the majority of the practices of cosmetology.



(d) The board may do all things necessary and convenient for enforcing this chapter. The board may from time to time promulgate necessary rules and regulations compatible with this chapter. The board shall compile and publish all rules and regulations, together with a copy of this chapter, and distribute the same to all licensees. Any amendment to this chapter or the rules and regulations of the board shall be published by the board and distributed to all licensees. Distributed copies shall be retained in each salon or school licensed by the board and shall be made available for inspection by salon or school personnel and the general public during normal operating hours.

(e) The board shall establish the recommended number of credit unit hours, including all phases necessary to produce competent practitioners, in each profession regulated by the board. The board shall also promulgate guidelines for approved seminars of continuing education.

(f) All rules and regulations promulgated by the board prior to June 3, 1999, are repealed. The board shall adopt rules and regulations pursuant to the Administrative Procedure Act, Chapter 22 of Title 41, to implement this chapter.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

#### Code Commissioner's Notes

Act 99-345, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7-1 to 34-7-47, inclusive, is continued pursuant to this newly-created chapter."

Act 2000-137, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7A-1 to 34-7A-25, inclusive, Code of Alabama 1975, is continued for one year, and those code sections are expressly preserved."

Act 2001-252, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7A-1 to 34-7A-25, inclusive, Code of Alabama 1975, is continued until October 1, 2003, and those code sections are expressly preserved."

Act 2003-57, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7A-1 to 34-7A-25, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

## REFERENCES

### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-1-.01 et seq., Board of Cosmetology; Administration.

### LIBRARY REFERENCES

American Digest System:

Licenses 21.  
Corpus Juris Secundum:  
C.J.S. Licenses §§ 37-38.

#### **§ 34-7A-4. Board -- Officers, personnel.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

(a) The members of the board shall annually elect from among their membership a president, a secretary, and a treasurer. The board members, before entering upon the discharge of their duties, shall each file with the State Treasurer a good and sufficient bond in the penal sum of five thousand dollars (\$5,000), payable to the state to insure the faithful performance of his or her duties. The premium on the bond shall be paid out of the funds of the board. The bond, with the approval of the board and oath of office endorsed thereon, shall be deposited and kept within the office of the Secretary of State. The treasurer of the board shall file with the State Treasurer a good and sufficient bond in the penal sum of twenty-five thousand dollars (\$25,000), payable to the state to insure the faithful performance of his or her duties as treasurer. The premium on the bond shall be paid out of the funds of the board.

(b) The position of executive director shall be appointed by the Governor in the unclassified service as provided for in Section 36-26-10. The executive director serving on June 3, 1999, unless appointed by the Governor on or after January 17, 1999, shall vacate his or her office immediately upon the Governor appointing an executive director to that position pursuant to this subsection. Vacancies in the position of executive director shall be filled by appointment of the Governor. The executive director shall serve at the pleasure of the Governor. The executive director shall hire all necessary employees of the board, subject to the state Merit System.

(c) Additional personnel may be employed by the board, with the approval of the executive director. A minimum of eight inspectors shall be employed by the board. Inspectors shall be paid the same mileage and per diem rate as other state employees. The compensation of personnel shall be paid out of the funds received by the board. The board shall establish job descriptions and duties for each employee, consistent with Merit System employee guidelines of the State Personnel Board.

(Act 99-345, p. 478, § 3.)

#### **HISTORICAL NOTES**

#### **HISTORY**

Effective date: The act which added this section is effective June 3, 1999.

#### **REFERENCES**

#### **LIBRARY REFERENCES**

American Digest System:  
Licenses 21.

Corpus Juris Secundum:  
C.J.S. Licenses §§ 37-38.

**§ 34-7A-5. Board -- Compensation, etc.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

Each member of the board shall be paid one hundred dollars (\$100) per day for transaction of board business, not to exceed 50 days during any calendar year. The board members shall also be paid the same mileage and per diem rate as other state employees from funds received by the board. Monies deposited in the State Treasury for the benefit of the board, shall be disbursed only upon warrant of the state Comptroller upon the State Treasury, upon itemized vouchers signed by the president and treasurer of the board or their authorized designees. Any money remaining in this fund at the end of each fiscal year shall remain on deposit in the State Treasury for the use of the board.  
(Act 99-345, p. 478, § 3.)

HISTORICAL NOTES

HISTORY

Effective date: The act which added this section is effective June 3, 1999.

REFERENCES

LIBRARY REFERENCES

American Digest System:  
Licenses 21.  
Corpus Juris Secundum:  
C.J.S. Licenses §§ 37-38.

**§ 34-7A-6. Board -- Meetings.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

The board shall meet at such times and places as a majority of the members shall agree upon. A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for its governance and shall adopt an official seal for the authentication of board transactions.  
(Act 99-345, p. 478, § 3.)

HISTORICAL NOTES

HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

### LIBRARY REFERENCES

American Digest System:  
Licenses 21.  
Corpus Juris Secundum:  
C.J.S. Licenses §§ 37-38.

### **§ 34-7A-7. Application for examination or licensure.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

(a) Any person who desires to engage in any of the practices regulated by the board pursuant to this chapter shall file with the board a written application for examination or licensure. The application shall be accompanied by a certificate of health, verified by a licensed physician, specifying the dates and results of chest X-rays or skin tests performed during the year immediately preceding application. An application for examination shall include the payment of a nonrefundable fee for each examination or reexamination of an applicant.

(b) Examination of an applicant for licensure shall be conducted pursuant to a procedure prescribed by the board. The procedure shall not be confined to any specific system or method and examinations shall be consistent with the prescribed curriculum for schools.

(c) Any applicant who fails the state board examination on the first attempt may have his or her temporary permit extended until the next scheduled examination. Any applicant who fails the state board examination on the second attempt shall complete an additional 375 clock hours in the appropriate school or complete an additional 600 clock hours of training in the appropriate salon or shop before a third attempt is permitted. Any student instructor who fails the examination on two attempts shall complete an additional 650 clock hours of training before a third attempt is permitted. On a third attempt, an applicant shall be required to take the entire examination.

(d) The licensure examination of a student instructor of cosmetology, skin care, or manicuring shall be conducted by an instructor of the same profession.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-2-.01 et seq., Board of Cosmetology; Licenses.

## LIBRARY REFERENCES

American Digest System:  
Licenses 22.  
Corpus Juris Secundum:  
C.J.S. Licenses § 43.

### **§ 34-7A-8. Records; register of applicants.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

(a) The board shall keep a permanent record of its proceedings. That record and all other books and records maintained by the board shall be public information, shall be prima facie evidence of matters therein contained, and shall at all reasonable times be open for public inspection.

(b) The board shall keep a register of all applicants for a certificate or licensure. The register shall include, but not be limited to, all of the following information:

- (1) The name, address, county of residence, and phone number of each applicant.
- (2) The birth date and Social Security number of each applicant.
- (3) The type of certificate or license applied for and the date of application.
- (4) Whether the applicant was granted or refused a certificate or license, and if refused, the reason for the refusal.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

## LIBRARY REFERENCES

American Digest System:  
Licenses 21, 24.  
Corpus Juris Secundum:  
C.J.S. Licenses §§ 37-38.

### **§ 34-7A-9. Issuance of certificate or license. UPDATED BY 2004-104**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

A certificate or license issued by the board, signed by the secretary of the board, and under the seal of the board, shall be evidence that the holder is entitled to practice the profession or professions listed thereon.

(1) A certificate or license shall be issued by the board to any applicant who, to the satisfaction of the board, successfully completes the applicable examination, pays the required fee or fees, and otherwise complies with this chapter. A certificate or license shall be issued by the board without examination to any applicant who pays the required fee or fees, complies with the requirements for licensure, and otherwise qualifies for licensure.

(2) The board may grant the appropriate license, without examination, to any applicant who pays the required fee or fees and is currently licensed in good standing in another state, territory, District of Columbia, or foreign country, if the requirements for licensure in the foreign jurisdiction were substantially similar to the requirements of this state at the time of foreign licensure. The applicant shall present proof to the board that he or she has continuously practiced the applicable profession for at least five years immediately preceding application.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

### REFERENCES

#### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-2-.01 et seq., Board of Cosmetology; Licenses.

#### LIBRARY REFERENCES

American Digest System:

Licenses 20, 36.

Corpus Juris Secundum:

C.J.S. Licenses §§ 39-41, 45-48.

### **§ 34-7A-10. Payment of fees.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

Fees for examination, licensure, and certification shall be paid in advance to the board and deposited each month into the State Treasury to the credit of a fund for the use of the board.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

### REFERENCES

#### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-9-.01, Board of Cosmetology; Fees.

#### LIBRARY REFERENCES

American Digest System:

Licenses 28.

Corpus Juris Secundum:

C.J.S. Licenses §§ 64-65.

#### **§ 34-7A-11. Fee schedule.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

A fee schedule established by the board shall include, but not be limited to, all of the following:

- (1) Original issuance and renewal fees for any personal license regulated by the board.
  - (2) Fees for upgrading a personal license during the renewal period and for upgrading a personal license to a manager or master license.
  - (3) Renewal fees for a personal license on inactive status.
  - (4) Fees for restoring an inactive license to active status.
  - (5) Original issuance and renewal fees for salons, booth renters, and cosmetic studios.
  - (6) Original issuance and renewal fees for schools of cosmetology, schools of manicuring, and schools for estheticians.
  - (7) Original issuance and renewal fees for applicants seeking licensure by reciprocity.
  - (8) Penalty fees for late renewal of any license.
  - (9) Examination and reexamination fees for students in public or private schools.
- (Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

#### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

#### REFERENCES

#### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-9-.01, Board of Cosmetology; Fees.

#### LIBRARY REFERENCES

American Digest System:

Licenses 28.

Corpus Juris Secundum:

C.J.S. Licenses §§ 64-65.

### **§ 34-7A-12. Change of name or address.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

- (a) A personal licensee shall notify the board immediately of any name or address change and the board shall retain that information on file for renewal and inspection purposes.
  - (b) Each salon, booth renter, and cosmetic studio shall notify the board immediately of any name or address change and the board shall retain that information on file for renewal and inspection purposes.
  - (c) Each salon, booth renter, and cosmetic studio which relocates to a different county shall obtain a new license from the board before moving.
- (Act 99-345, p. 478, § 3.)

### **HISTORICAL NOTES**

#### **HISTORY**

Effective date: The act which added this section is effective June 3, 1999.

### **REFERENCES**

#### **LIBRARY REFERENCES**

American Digest System:

Licenses 24, 25.

Corpus Juris Secundum:

C.J.S. Licenses §§ 37, 41, 45-46.

### **§ 34-7A-13. School registration.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

- (a) Application for school registration shall be filed with the board on forms provided by the board.
- (b) No school shall be granted a certificate of registration unless all of the following requirements are satisfied:
  - (1) The school employs and maintains two competent instructors, at least one for every 20 students in attendance, at any one time. If the school has more than 20 students enrolled, the school shall employ an additional instructor. If the school has less than 20 students enrolled, the school shall employ one instructor and one on-call instructor.
  - (2) The school possesses apparatus and equipment sufficient for the proper and complete teaching of all subjects in its curriculum.
  - (3) The school keeps a daily attendance record of each student.
  - (4) The school maintains regular classes and instruction hours, establishes grades, and conducts examinations before issuing diplomas.



(5) The school requires a school term of training for a complete course with the minimum number of hours therein prescribed.

(6) The school includes practical demonstrations, theoretical studies, and study in sanitation, sterilization, other safety measures and the use of antiseptics, cosmetics, and electrical appliances, consistent with the practical and theoretical requirements applicable to cosmetology or any practice of either.

(7) The school certifies that all furniture, equipment, tools, appliances, floors, and ceilings, are kept in a clean, sanitary, and safe condition.

(c) A school that enrolls student instructors shall not have at any one time more than two student instructors for each licensed instructor actively engaged in the school. A school engaged only in the teaching of estheticians or manicurists shall not be required to provide instruction in other practices of cosmetology but shall meet all other requirements imposed by the board upon a school of cosmetology pertaining to instructors, attendance records, enrollments, and other matters.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-5-.01, Board of Cosmetology; Reciprocity: Certificate of Registration for a School.

4 Ala. Admin. Code 250-X-5-.02, Board of Cosmetology; Reciprocity: Classification of Schools.

4 Ala. Admin. Code 250-X-5-.03, Board of Cosmetology; Reciprocity: School Application.

4 Ala. Admin. Code 250-X-5-.04, Board of Cosmetology; Reciprocity: Persons Desiring to Open School Must Meet with Board.

4 Ala. Admin. Code 250-X-5-.07, Board of Cosmetology; Reciprocity: Application for Schools.

### LIBRARY REFERENCES

American Digest System:

Licenses 11(1), 20.

Corpus Juris Secundum:

C.J.S. Licenses §§ 34, 39-41.

## **§ 34-7A-14. Display of certificate.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

Each holder of a certificate or license granted by the board shall display the certificate or license in a conspicuous place in his or her principal office, place of business, or place of employment, and each license or certificate shall have attached thereto a picture of the licensee made not more than three years prior to the date the license was issued.  
(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

### LIBRARY REFERENCES

American Digest System:  
Licenses 25.  
Corpus Juris Secundum:  
C.J.S. Licenses §§ 41, 45-46.

### **§ 34-7A-15. Refusal, revocation, etc., of certificate or license.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

- (a) The board may refuse to grant, or may revoke or suspend, a license or a certificate of registration upon proof of violation of this chapter or any rule or regulation promulgated by the board.
- (b)(1) The board may, for any of the following reasons, refuse to grant or renew, or may revoke or suspend the license or certificate of registration of any applicant, licensee, or holder who:
- a. Is found guilty of fraud or dishonest conduct in taking the examination.
  - b. Has been convicted of a felony or gross immorality, or is guilty of grossly unprofessional or dishonest conduct.
  - c. Is addicted to the excessive use of intoxicating liquor or to the use of drugs to an extent that he or she is rendered unfit to practice any profession regulated by the board.
  - d. Advertises by means of knowingly false or deceptive statements.
  - e. Fails to display his or her license or certificate as required by this chapter.
- (2) The board may not refuse to grant, refuse to renew, revoke, or suspend any license or certificate without a hearing. The affected applicant, licensee, or holder of a certificate shall be given at least 20 days' notice in writing of the hearing, specifying the reasons for the action by the board and any offense charged. Notice may be served by registered or certified mail to the last known residence or business address of the applicant, licensee, or holder of a certificate. The hearing shall be held in Montgomery County at a time and place prescribed by the board.

(c) In addition to any disciplinary powers authorized by this section, the board may levy and collect an administrative fine of not more than five hundred dollars (\$500) per violation for serious violations of this chapter or the rules or regulations of the board.  
(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

### REFERENCES

#### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-1-.01, Board of Cosmetology; Administration: Disciplinary Procedures and Actions.

4 Ala. Admin. Code 250-X-1-.02, Board of Cosmetology; Administration: Hearing Procedures.

#### LIBRARY REFERENCES

American Digest System:  
Licenses 38.

Corpus Juris Secundum:  
C.J.S. Licenses §§ 48, 50-63.

### **§ 34-7A-16. Findings, orders of board.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

Any finding or order of the board, obtained pursuant to an inquiry or hearing conducted before a majority of the members of the board, shall be deemed the finding or order of the board when approved and confirmed by a majority of the members of the board.  
(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

### REFERENCES

#### LIBRARY REFERENCES

American Digest System:  
Licenses 22, 38.

Corpus Juris Secundum:  
C.J.S. Licenses §§ 43, 48, 50-63.

### **§ 34-7A-17. Appeal.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

Notwithstanding any other provision of law, a person who has exhausted all administrative remedies available through the board, other than a rehearing, and who has been aggrieved by a final decision in a contested case, shall be entitled to an appeal in accordance with Section 41-22-20. A decision by the board to refuse to issue or renew a license, or to revoke, suspend, or otherwise restrict a license or limit or otherwise discipline a licensee, shall be subject to those provisions regarding stays pursuant to subsection (c) of Section 41-22-20. A decision that a candidate for licensure has failed any examination given by the board shall not be considered a final order reviewable by any court.

(Act 99-345, p. 478, § 3.)

#### **HISTORICAL NOTES**

#### **HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

#### **REFERENCES**

#### **LIBRARY REFERENCES**

American Digest System:

Licenses 22, 38.

Corpus Juris Secundum:

C.J.S. Licenses §§ 43, 48, 50-63.

### **§ 34-7A-18. Construction of chapter.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes

This chapter shall not be construed to affect or regulate the teaching of cosmetology or any of its practices in any public school.

(Act 99-345, p. 478, § 3.)

#### **HISTORICAL NOTES**

#### **HISTORY**

Effective date: The act which added this section is effective June 3, 1999.

### **§ 34-7A-19. Exemption from chapter.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

- (a) This chapter shall not apply to any of the following activities or services:
- (1) Service in the case of emergency or domestic administration, without compensation.
  - (2) Services by persons authorized under the laws of this state to practice medicine, surgery, dentistry, chiropody, osteopathy, or chiropractic or the occupation of a masseur.
  - (3) The services by any barber, including barber's apprentices and shop boys, when engaged in any of the following practices:
    - a. Arranging, cleaning, cutting, styling, dressing, curling, applying permanent curling or styling solution, waving, bleaching, coloring, applying any cosmetic chemical preparation to or singeing the hair of any person.
    - b. Massaging, cleansing, stimulating, exercising, or similar work upon the scalp, face, or neck of any person with the hands, or with mechanical or electrical apparatus or appliance, or by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
  - (4) The services of personnel of the United States Army, Navy, Air Force, or Marine Corps.
  - (5) The services of registered nurses doing any of the acts or works defined as cosmetology.
  - (6) To the teaching or practice of cosmetology in training public school or trade school pupils.
  - (7) To any person who only occasionally dresses hair and receives no compensation therefor, or does any other act or thing mentioned in this chapter without holding himself or herself out to the public as a practicing cosmetologist.
  - (8) To any public trade school or other public school or school program under the purview of the State Board of Education or a local board of education.
  - (9) To departments in retail establishments where cosmetics are demonstrated and offered for sale but where no other acts of cosmetology are performed.
- (b) Any person who knowingly interferes with any service, practice, or action exempted from this chapter shall be guilty of a Class A misdemeanor.  
(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

### LIBRARY REFERENCES

American Digest System:  
Licenses 19(3).  
Corpus Juris Secundum:  
C.J.S. Licenses §§ 35-36.

**§ 34-7A-20. Duration, renewal, and restoration of certificate or license. UPDATED BY ACT 2004-104**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

- (a) A license issued by the board shall be for a period of two years or less as follows:
- (1) A personal license issued after June 3, 1999, shall expire on the first day of the birth month of the licensee in odd-numbered years. An application for renewal of a personal license shall be received by the board on or before the last day of the birth month of the licensee in odd-numbered years. A penalty fee shall be assessed against a licensee whose renewal application is not timely received by the board.
- (2) A business, salon, or school license issued after June 3, 1999, shall expire on the first day of September in odd-numbered years. An application for renewal of a business, salon, or school license shall be received by the board before November 1 in odd-numbered years. A penalty fee shall be assessed against the holder of a business, salon, or school license whose renewal application is not timely received by the board.
- (b)(1) An expired certificate or license may be restored within three years after the date of expiration upon payment of a fee. The restoration fee shall include accumulated annual renewal fees for the lapsed period, a penalty fee, and the current renewal fee.
- (2) A license which has been expired for more than three years may be restored upon proof of prior licensing, payment of the applicable examination fee, successful completion of the practical part of the applicable examination, and payment of accumulated fees for the lapsed period.
- (c) The name of any licensee, certificate holder, student, or apprentice who has not renewed or become licensed by the board within four years of making application to the board may be purged from any register kept by the board.
- (Act 99-345, p. 478, § 3.)

**HISTORICAL NOTES**

**HISTORY**

Effective date: The act which added this section is effective June 3, 1999.

**REFERENCES**

**LIBRARY REFERENCES**

American Digest System:  
Licenses 22.  
Corpus Juris Secundum:  
C.J.S. Licenses § 43.

**§ 34-7A-21. Salon, shop, or booth license.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

Any person desiring to obtain a salon license, shop license, or booth license shall submit a written request to the board for an application. A salon or shop that loses its managing or master licensee shall immediately notify the board, hire a new manager or master licensee, and submit an affidavit completed by the new manager or master to the board. (Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-3-.01 et seq., Board of Cosmetology; Operation of Beauty Shops.

### LIBRARY REFERENCES

American Digest System:  
Licenses 11(1), 22.

Corpus Juris Secundum:  
C.J.S. Licenses §§ 34, 43.

## **§ 34-7A-22. Qualifications of applicants for examination, registration, etc.**

Current through End of 2003 Organizational, Regular and 1st Special Session.  
Historical Notes    References

No person may be admitted to examination, registered, licensed, or issued a certificate by the board unless he or she possesses the following applicable qualifications:

- (1) Apprentice. A cosmetologist, esthetician, or manicurist apprentice shall be registered with the board upon beginning an apprenticeship in a licensed shop or salon and paying the original registration fee. An apprentice shall be at least 16 years of age at the time of registration and shall have an education equivalent to the completion of 10 grades in school. Any salon or shop which trains an apprentice shall immediately file with the board the name and age of the apprentice, and the board shall retain that information in a register kept for that purpose. An apprentice shall not be concurrently enrolled in a school licensed pursuant to this chapter except for six hours of theory training per week. An esthetician salon may only train an apprentice esthetician for license under the direction of a master or instructor esthetician. A manicurist salon may only train an apprentice manicurist for license under the direction of a master or instructor manicurist.
- (2) Cosmetologist. Except as otherwise provided in this chapter, no person may be licensed as a cosmetologist in any one or a combination of the practices of cosmetology unless he or she pays the original licensing fee, has an education equivalent to the com-

pletion of 10 grades in school, has passed the applicable examination to the satisfaction of the board, and has successfully completed either of the following:

- a. A complete course of cosmetology, consisting of all or a majority of the practices thereof, in a school of cosmetology, consisting of not less than 1,200 credit unit hours nor more than 1,700 actual clock hours of continuous training, not exceeding eight hours a day, or a course of study in a public school or trade school consisting of not less than 1,200 credit unit hours nor more than 1,700 actual clock hours of training.
- b. An apprenticeship in a cosmetology salon for not less than 3,000 hours of training over a maximum three year period, not exceeding eight hours a day.

(3) Cosmetologist instructor.

a. Except as otherwise provided in this chapter, no person may be licensed as an instructor in any one or a combination of the practices of cosmetology unless he or she pays the original licensing fee, is a licensed cosmetologist, and, to be eligible for admission to examination, has successfully completed either of the following:

1. Not less than 1,250 credit unit hours nor more than 1,700 actual clock hours in a teacher's training course in cosmetology in a school of cosmetology, or a course of study in a public school or trade school consisting of not less than 1,250 credit unit hours nor more than 1,700 actual clock hours of training.
2. At least one year of experience as an active practicing cosmetologist before enrollment as a student instructor, supplemented by not less than 650 hours in a teacher's training course in cosmetology in a school of cosmetology.

b. To be eligible to enroll in a teacher's training course, a cosmetologist shall have an education equivalent to the completion of 12 grades in school.

c. A cosmetologist instructor shall complete 16 hours of course study in continuing education from a board-approved seminar during each licensing period.

(4) Demonstrator. A demonstrator shall obtain a license from the board before conducting a demonstration. The requirements for a demonstrator's license include, but are not limited to, submission to the board of a health card, two photographs, a notarized application, and the applicable fee.

(5) Esthetician. Except as otherwise provided in this chapter, no person may be licensed as an esthetician unless he or she pays the original licensing fee, has an education equivalent to the completion of 10 grades in school, has passed the applicable examination to the satisfaction of the board, and has successfully completed either of the following:

a. A complete course of skin care, consisting of all or a majority of the practices thereof, in a school of cosmetology or school for estheticians, consisting of not less than 1,200 credit unit hours nor more than 1,700 actual clock hours of continuous training, not exceeding eight hours a day, or a course of study in a public school or trade school consisting of not less than 1,200 credit unit hours nor more than 1,700 actual clock hours of training.

b. An apprenticeship in a cosmetology salon or esthetician salon for not less than 3,000 hours of training over a maximum three year period, not exceeding eight hours a day.

(6) Esthetician instructor. Except as otherwise provided in this chapter, no person may be licensed as an esthetician instructor unless he or she pays the original licensing fee, is a licensed cosmetologist or esthetician, and, to be eligible for admission to examination, has successfully completed not less than 1,250 credit unit hours nor more than 1,700 actual clock hours in a teacher's training course in skin care in a school of cosmetology or



school for estheticians. To be eligible to enroll in a teacher's training course, an esthetician shall have an education equivalent to the completion of 12 grades in school. An esthetician instructor shall complete 16 hours of course study in continuing education from a board-approved seminar during each licensing period.

(7) Managing cosmetologist. Except as otherwise provided in this chapter, no person may be licensed as a managing cosmetologist unless he or she pays the original licensing fee, is a licensed cosmetologist, and has practiced as a cosmetologist in a cosmetology salon or school of cosmetology for at least one year before application.

(8) Managing esthetician. Except as otherwise provided in this chapter, no person may be licensed as a managing esthetician unless he or she pays the original licensing fee, is a licensed esthetician, and has practiced as an esthetician in a cosmetology salon, esthetician salon, school of cosmetology, or school for estheticians for at least one year before application.

(9) Managing manicurist. Except as otherwise provided in this chapter, no person may be licensed as a managing manicurist unless he or she pays the original licensing fee, is a licensed manicurist, and has practiced as a manicurist in a cosmetology salon, manicurist salon, school of cosmetology, or school of manicuring for at least one year before application.

(10) Manicurist. Except as otherwise provided in this chapter, no person may be licensed as a manicurist unless he or she pays the original licensing fee, has an education equivalent to the completion of 10 grades in school, has passed the applicable examination to the satisfaction of the board, and has successfully completed either of the following:

a. A complete course of manicuring, consisting of all or a majority of the practices thereof, in a school of cosmetology or school of manicuring, consisting of not less than 600 credit unit hours of continuous training, not exceeding eight hours a day, or a course of study in a public school or trade school consisting of not less than 600 credit unit hours of training.

b. An apprenticeship in a cosmetology salon or manicurist salon for not less than 1,200 hours of training over a maximum three year period, not exceeding eight hours a day.

(11) Manicurist instructor.

a. Except as otherwise provided in this chapter, no person may be licensed as a manicurist instructor unless he or she pays the original licensing fee, is a licensed cosmetologist or manicurist, and, to be eligible for admission to examination, has successfully completed either of the following:

1. Not less than 1,250 actual clock hours in a teacher's training course in manicuring in a school of cosmetology or school of manicuring, or a course of study in a public school or trade school consisting of not less than 1,250 actual clock hours of training.

2. At least one year of experience as an active practicing cosmetologist or manicurist before enrollment as a student instructor, supplemented by not less than 650 hours in a teacher's training course in cosmetology or manicuring in a school of cosmetology or school of manicuring.

b. To be eligible to enroll in a teacher's training course, a manicurist shall have an education equivalent to the completion of 12 grades in school.

c. A manicurist instructor shall complete 16 hours of course study in continuing education from a board-approved seminar during each licensing period.

(12) Master cosmetologist or master esthetician or master manicurist. Any person licensed as a managing cosmetologist, managing esthetician, or managing manicurist, who pays the original licensing fee and completes a course of study in continuing education approved by the board within a licensing period, may be issued a master license. The master license is an optional license available upon renewal to those licensees who voluntarily complete the continuing education requirements.

(13) Student cosmetologist.

a. Upon certification of enrollment by a school of cosmetology, the name and birth date of each student cosmetologist shall be entered by the board in a register kept for that purpose. A student cosmetologist shall be at least 16 years of age at the time of registration and shall have an education equivalent to the completion of 10 grades in school. Registration with the board shall be on forms provided by the board.

b. A student who has completed 70 percent of the required school instructional hours may, when school is not in session, work in a cosmetology salon. One student trainee shall be allowed for the first master or managing cosmetologist and one additional student trainee shall be allowed for each three additional cosmetologists on staff.

c. Within 90 days after a student completes the required school instructional hours and training, the appropriate instructor shall schedule an examination of the student with the board. If application for examination is not received within the 90 day period, the applicable instructional hours and training shall be invalidated.

(14) Student esthetician. Upon certification of enrollment by a school of cosmetology, or school for estheticians, the name and birth date of each student esthetician shall be entered by the board in a register kept for that purpose. A student esthetician shall be at least 16 years of age at the time of registration and shall have an education equivalent to the completion of 10 grades in school.

(15) Student instructor. Upon certification of enrollment by a school of cosmetology, school for estheticians, or school of manicuring, the name, birth date, and qualifications of each student instructor shall be entered by the board in a register kept for that purpose. At the time of enrollment, a student instructor shall be licensed as a cosmetologist, esthetician, or manicurist and shall have an education equivalent to the completion of 12 grades in school. Upon completing the instructional course prescribed for student instructors, a student instructor may apply to the board for examination, on a form provided by the board, and pay any applicable examination fee. Any applicant who passes the examination to the satisfaction of the board and pays the original licensing fee of an instructor shall be issued an instructor's license by the board. A school for estheticians may only train esthetician student instructors for licensure. A school of manicuring may only train manicurist student instructors for licensure.

(16) Student manicurist. Upon certification of enrollment by a school of cosmetology or school of manicuring, the name and birth date of each student manicurist shall be entered by the board in a register kept for that purpose. A student manicurist shall be at least 16 years of age at the time of registration and shall have an education equivalent to the completion of 10 grades in school.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

## HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-2-.02, Board of Cosmetology; Licenses: Cosmetologist/Manicurist/Esthetician.

4 Ala. Admin. Code 250-X-2-.03, Board of Cosmetology; Licenses: Managing License.

4 Ala. Admin. Code 250-X-2-.04, Board of Cosmetology; Licenses: Master License.

4 Ala. Admin. Code 250-X-2-.05, Board of Cosmetology; Licenses: Instructor License.

4 Ala. Admin. Code 250-X-4-.01, Board of Cosmetology; Apprentices: Requirements.

### LIBRARY REFERENCES

American Digest System:

Licenses 20.

Corpus Juris Secundum:

C.J.S. Licenses §§ 39-41.

### **§ 34-7A-23. Teacher's permit.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

The board may issue a teacher's permit to any person licensed to practice in any field related to cosmetology, skin care, or manicuring. Before a permit is issued, the licensee shall apply to the board, pay the applicable fee, and provide proof of qualifications. A teacher's permit entitles the holder to teach theory only in the field in which he or she is licensed to practice.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

## HISTORY

Effective date: The act which added this section is effective June 3, 1999.

## REFERENCES

### LIBRARY REFERENCES

American Digest System:

Licenses 11(1), 20.

Corpus Juris Secundum:

C.J.S. Licenses §§ 34, 39-41.

### **§ 34-7A-24. Licensure, etc., under former chapter.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

#### Historical Notes

For the purposes of this chapter, any person or entity properly licensed, certified, or registered by the Alabama Board of Cosmetology on June 3, 1999, shall be similarly licensed, certified, or registered by the Alabama Board of Cosmetology as created by this chapter, without penalty, for the time remaining on the license of the licensee.  
(Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

#### HISTORY

Effective date: The act which added this section is effective June 3, 1999.

#### **§ 34-7A-25. Continuation of board.**

Current through End of 2003 Organizational, Regular and 1st Special Session.

Historical Notes    References

The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7-1 to 34-7-47, inclusive, is continued pursuant to the this newly-created chapter. All rights, duties, property, real or personal, and all other effects existing in the name of the Alabama Board of Cosmetology, or in any other name by which the board has been known, shall continue in the name of the Alabama Board of Cosmetology. Any reference to the Alabama Board of Cosmetology, or any other name by which the board has been known, in any existing law, contract, or other instrument shall constitute a reference to the Alabama Board of Cosmetology as created in this chapter. All actions of the Alabama Board of Cosmetology lawfully done prior to June 3, 1999, by the board or by the executive director, are approved, ratified, and confirmed. The board as constituted on June 3, 1999, shall constitute the board under this chapter.  
(Act 99-345, p. 478, § 2.)

#### HISTORICAL NOTES

#### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

#### REFERENCES

#### LIBRARY REFERENCES

American Digest System:

Licenses 21.

Corpus Juris Secundum:

Act 2004-104

SB107

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ENROLLED, An Act,

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Cosmetology until October 1, 2005, with certain modifications; to amend Sections 34-7A-9 and 34-7A-20, Code of Alabama 1975, so as to clarify the qualifications for an applicant to receive a personal or business license; to specify the time period for imposing a penalty fee for late renewal; and to provide for the reinstatement of expired licenses.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Alabama Board of Cosmetology, until October 1, 2005, with the additional recommendations for statutory change as set out in Section 3.

Section 2. The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7A-1 to 34-7A-25, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-7A-9 and 34-7A-20 of the Code of Alabama 1975, are amended to read as follows:

"§34-7A-9.

1           "(a) A license or permit issued under the seal of  
2           the board and signed by the secretary of the board shall  
3           entitle the holder to practice the profession listed on the  
4           license or permit.

5           "(b) To receive a personal license, an applicant  
6           shall meet any of the following requirements or conditions:

7           " (1) Satisfy legal requirements, complete required  
8           hours as an apprentice or student, pay the appropriate  
9           examination fee, pass the appropriate examination, and pay the  
10          required license fee.

11          " (2) Be currently licensed in good standing in  
12          another state or jurisdiction, provide documentation of having  
13          passed a board approved examination, and pay the required  
14          license fee.

15          " (3) Be currently licensed in good standing in  
16          another state or jurisdiction, provide documentation of having  
17          practiced as a licensee in the appropriate field for at least  
18          five years before application, and pay the required license  
19          fee.

20          " (4) Be otherwise qualified, pay the appropriate  
21          examination fee, pass the appropriate examination, and pay the  
22          required license fee.

23          " (c) A personal license shall expire on the last day  
24          of the birth month of the licensee in odd-numbered years. An

1 application for renewal received more than five days after the  
2 expiration date shall be assessed a late penalty fee.

3 "(d) To receive a business license, an applicant  
4 shall satisfy all legal requirements and pay the required  
5 license fee.

6 "(e) A business license shall expire on the last day  
7 of September in odd-numbered years. An application for renewal  
8 received more than 31 days after the expiration date shall be  
9 assessed a late penalty fee.

10 "\$34-7A-20.

11 "(a) No license issued by the board shall be valid  
12 for more than two years.

13 "(b) An expired license may be reinstated within  
14 three years after the date of expiration by paying renewal  
15 fees for the lapsed period, a current renewal fee, and a late  
16 fee.

17 "(c) A license which has been expired for more than  
18 three years may be reinstated by furnishing proof of prior  
19 licensure, paying the appropriate practical examination fee,  
20 passing the appropriate practical examination, and paying  
21 renewal fees for the lapsed period, a current renewal fee, and  
22 a late fee.

23 "(d) The record of any licensee, student,  
24 apprentice, or examination candidate who does not renew within

1 four years or which does not indicate any activity for four  
2 years may be purged by the board."

3 Section 4. The Legislature concurs in the  
4 recommendations of the Sunset Committee as provided in  
5 Sections 1, 2, and 3.

6 Section 5. The provisions of this act are severable.  
7 If any part of this act is declared invalid or  
8 unconstitutional, that declaration shall not affect the part  
9 which remains.

10 Section 6. All laws or parts of laws which conflict  
11 with this act are repealed.

12 Section 7. This act shall become effective  
13 immediately upon its passage and approval by the Governor, or  
14 its otherwise becoming law.

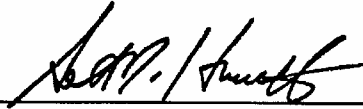


SB107

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President and Presiding Officer of the Senate



Speaker of the House of Representatives

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SB107

Senate 09-MAR-04

I hereby certify that the within Act originated in and passed the Senate.

McDowell Lee  
Secretary

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22

House of Representatives  
Amended and passed 30-MAR-04

Senate concurred in House amendment 01-APR-04

23  
24

By: Senator Dixon

APPROVED 4-8-04

TIME 1:02 pm

  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2004-104  
Bill Num....: S-107

Page 5

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## Board Members



### **ALABAMA BOARD OF COSMETOLOGY**

RSA Union Building  
100 N. Union Street, Suite 320  
P. O. Box 301750  
Montgomery, AL 36130-1750

334-242-1918 Office  
800-815-7453 toll free

334-242-1926 Fax  
[www.aboc.state.al.us](http://www.aboc.state.al.us)

**Bob McKee**  
*Executive Director*

**Claire Mitchell**  
*Chairman of the Board*

October 6, 2004

To: State of Alabama, Dept. of Examiners of Public Accounts  
Attn: Robin Arwood Stone  
P. O. Box 302251  
Montgomery, AL 36130

The following are the Members and the Official of the Alabama Board of Cosmetology:

<b>Board Member:</b>		<b>Term expires:</b>
Hon. Claire B. Mitchell Chairman	Bessemer, AL	3/25/06
Hon. Nancy Fair	Gordo, AL	5/18/06
Hon. Ethelyon P. (Pat) Goodall	Mobile, AL	5/18/08
Hon. Janice P. Blake	Montgomery, AL	5/18/08
Hon. Janie Cheatham	Decatur, AL	4/09/06
Hon. Tim Mitchell	Alabaster, AL	3/25/06
Hon Vivian Stewart	Opp, AL	5/18/05
<b>Official:</b>		
Mr. Bob McKee Executive Director	Alabama Board of Cosmetology 100 N. Union St., Suite 320 Montgomery, AL 36130 Phone: (334) 242-1918 FAX: (334) 242-1926	Indefinite

Please contact me if you need any further information regarding this.

Sincerely,

**Bob McKee**  
Executive Director



## **ALABAMA BOARD OF COSMETOLOGY**

**RSA Union Building**  
**100 N. Union Street, Suite 320**  
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**Bob McKee**  
*Executive Director*

**Claire B. Mitchell**  
*Chairman*

October 7, 2004

Mr. John Norris  
Examiners of Public Accounts  
3201 Gordon Persons Building  
50 Ripley Street  
Montgomery, AL 36104-3383

Dear Mr. Norris:

Attached are our responses to significant findings during the most recent examination of this agency.

Thanks for your assistance, and special thanks to Ms. Robin Stone of your staff for her helpful attitude and insightful suggestions. Our aim is to operate with an open door policy in full compliance with the laws and regulations of this board. All irregularities which need correcting will be promptly addressed.

Thanks for your attention, and please let me know if you have further questions.

Sincerely,

Bob McKee



**Bob McKee**  
*Executive Director*

## **ALABAMA BOARD OF COSMETOLOGY**

**RSA Union Building**  
**100 N. Union Street, Suite 320**  
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**Claire B. Mitchell**  
*Chairman*

### **SIGNIFICANT ITEMS FOR BOARD OF COSMETOLOGY**

#### **1. The loss of an examination booklet led to increased security procedures over testing materials.**

**Response:** With a member of the office staff, the executive director of the Board helps verify the number of written examinations when they are received at the Board office. An acknowledgment is sent to the exam provider and booklets are then locked in the executive director's office in a closet to which only two members of the Board staff have access. The executive office is separately keyed and locked with access limited to executive staff.

On exam day, the executive director counts the written exams to verify the correct number and packs them in a suitcase which he conveys to the exam site. At the appropriate time he distributes the exam booklets to candidates, and once the booklets are distributed, he remains in the exam room and counts the exam booklets distributed and those unused to verify the correct total. As candidates finish their exams, they return the booklets to the executive director and a staff member who write the serial number of each booklet beside the candidate's name. When all candidates are finished, the executive director and the staff member recount the booklets again to verify the correct total. The executive director then repacks the booklets and returns them to the office closet. The booklets are counted one final time on the day after exams and then shipped back to the provider.

#### **2. Board member attendance and participation in examination rater training may have precipitated an ethics violation.**

**Response:** Board members professionally qualified as an instructor or master cosmetologist have historically participated in both rater training and grading candidates for licensure. However, by rule or informal agreement, school owner Board members have customarily been excused from actually grading candidates.

The Board is very conscious of its responsibility to insure that candidates are properly examined for licensure, and view this as one of its primary functions.

However, since contracting with the National-Interstate Council of State Boards of Cosmetology to administer examinations under NIC's aegis, the Board is reassessing the role of Board members in the examination process, especially those who are school owners.

**3. The proliferation of unlicensed barbershops offering essentially the same services as cosmetologists reduces the board's ability to regulate the practice of cosmetology.**

**Response:** This agency has made great strides in improving both financial and licensing efficiency. But no matter how much progress is made administratively, the Board will never be able to fulfill its regulatory responsibility under the present law.

Alabama is the only state which provides by a law a blanket exemption for not only barbers but also "barbers' apprentices" and "shop boys" to practice all facets of cosmetology except perhaps manicure as long as they do not call themselves "cosmetologists". The law contains no precise definition of "shop boy", but it is not out of the question that such a person may in fact be a juvenile as young as fourteen or fifteen years in age. All that is required of a "shop boy" to practice cosmetology is to buy a business license and set up his own shop, or else work in a barbershop owned by an older person.

There are six counties which have barber boards or commissions, and in the remainder of the state, our inspectors have difficulty knowing who we can regulate. The Board has no quarrel with barbers who are barbers and practice under the definition of the Alabama Code, 1975, Section 34-5-1, or who do not use chemicals. The problem is that cosmetologists may operate as barbers and barbers may operate as cosmetologists as long as they are careful about what terms they use to officially represent their services to the public.

Registered nurses, medical doctors, surgeons, chiropractors, chiropodists, dentists and masseurs all may practice cosmetology.

In addition, personnel – not just active enlistees – of the United States Army, Marines, Navy and Air Force may practice cosmetology under a blanket exemption. Significantly, the United States Coast Guard was left out of the exemption.

It's difficult to explain this to professionals who have spent a great deal of time, effort and money getting the appropriate training and passing a licensing exam. Indeed, the only reason the Board still has 27,000 current licensees and 30,000 who have not renewed on a timely basis is that they believe it is good for their profession and the public to have a regulatory board. Otherwise, the Board would have ceased to exist long ago.

**4. The loss of applications and checks led to the implementation of monitored licensing procedures.**

**Response:** It is probably incorrect to refer to the missing applications and checks as "lost". We have put strict safeguards in place to prevent such "losses" in the future.

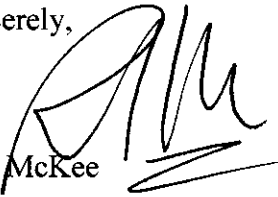
Every piece of mail received by this office is logged at the front desk, and every check received is accounted for and acknowledged by two people. The paper work is then distributed to the proper division and the checks are deposited on a daily basis. Paper work going from one person to another is initialized for establishing a trail. Checks received too late to be deposited and correspondence containing confidential information are locked in the safe over night. The file room is secured with a lock, and any files removed must be signed out signed in. Applications are stored in the safe over night, and must be signed out and signed in.

**PRIOR CONDITION 13 Comment:** The thirty-day window for salons to correct deficiencies is indefinite and restrictive. For example, there are many instances where a salon may receive an inspection score of 75 and can make simple corrections which would not require a follow-up inspection within thirty days. There are others with serious sanitary and license violations which require an immediate follow-up inspection. It has been difficult to provide the resources to re-inspect every salon falling below a score of 80 within thirty days, and we are submitting a rule change to allow more time for marginal salons to become compliant. More attention can then be given to real problem salons in a shorter time frame.

**PRIOR CONDITION 14 Comment:** The Board simply neglected to abide by its own rule, and this is an oversight which can be easily corrected. We will take care to observe all requirements for continuing education in the future.

Thanks for your attention, and please let me know if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'BM', with a horizontal line underneath.

Bob McKee